

**IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, EASTERN DIVISION**

**CLARA S. MITCHELL, as the personal
representative of BOBBY L. MITCHELL,
deceased,**

Plaintiff,

v.

**DEBBIE A. SWEET and STATE FARM
MUTUAL AUTOMOBILE INSURANCE
COMPANY,**

Defendants.

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Civil Action Number:

3:05cv1210-WKW

**ANSWER OF DEFENDANT STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY**

Defendant State Farm Mutual Automobile Insurance Company (hereinafter, “State Farm”), in answer to the Amended Complaint filed by Plaintiff Clara S. Mitchell (hereinafter, the “Plaintiff”), states as follows:

1. Admitted.

2. The allegations of paragraph 2 are denied, in that State Farm does not have sufficient information to admit or deny the allegations.

3. Admitted.

COUNT I

1. State Farm admits that there was a motor vehicle accident on October 13, 2005 on U.S. 280 in Tallapoosa County, Alabama. The remaining allegations in this paragraph are denied, in that State Farm does not have sufficient information to admit or deny the allegations.

2. The allegations of paragraph 2 are denied, in that State Farm does not have sufficient information to admit or deny the allegations.

In response to the unnumbered paragraph of the Complaint following paragraph 2, State Farm denies that the Plaintiff is entitled to a judgment against the Defendants or to any damages or any other relief from the Defendants.

COUNT II

3. State Farm reincorporates the Answers to the allegations in each of the foregoing paragraphs by reference.

4. State Farm admits that there was a motor vehicle accident on October 13, 2005 on U.S. 280 in Tallapoosa County, Alabama. The remaining allegations in this paragraph are denied, in that State Farm does not have sufficient information to admit or deny the allegations.

5. The allegations of paragraph 5 are denied, in that State Farm does not have sufficient information to admit or deny the allegations.

6. The allegations of paragraph 6 are denied, in that State Farm does not have sufficient information to admit or deny the allegations.

In response to the unnumbered paragraph of the Complaint following paragraph 6, State Farm denies that the Plaintiff is entitled to a judgment against the Defendants or to any damages or any other relief from the Defendants.

COUNT III

7. State Farm reincorporates the Answers to the allegations in each of the foregoing paragraphs by reference.

8. Admitted.

9. Denied.

10. Denied.

In response to the unnumbered paragraph of the Complaint following paragraph 10, State Farm denies that the Plaintiff is entitled to a judgment against State Farm or to any damages or any other relief from State Farm.

FIRST DEFENSE

State Farm avers that Bobby L. Mitchell's negligence on the occasion complained of proximately caused or contributed to his death and any injuries and damages of the Plaintiff Clara S. Mitchell; therefore, the Plaintiff is barred from recovery.

SECOND DEFENSE

In the event the Plaintiff enters into a settlement with any other Defendants, State Farm is entitled to plead or prove this other settlement as a set-off and/or credit to any Judgment entered

against State Farm in this case, or to have the Court modify or conform any jury verdict and Judgment to give State Farm credit for this settlement.

THIRD DEFENSE

State Farm reserves the right to opt out under the applicable law.

FOURTH DEFENSE

State Farm reserves the right to amend this Answer or to file any Cross-Claim following additional investigation and discovery.

s/ S. Allen Martin, Jr.
Stanley A. Martin (MAR049)
S. Allen Martin, Jr. (MAR149)
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Company

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served an exact copy of the foregoing upon the following counsel of record, by depositing a copy of same in the United States Mail, properly addressed with first class postage prepaid thereon:

Honorable Roger L. Lucas
Lucas, Wash, Petway, Tucker & Stephens
Two Chase Corporate Drive, Ste. 460
Birmingham, AL 35242

Honorable Hunter C. Carroll
Stockham, Carroll & Smith, P.C.
2204 Lakeshore Drive, Ste. 114
Birmingham, AL 35209

This 31st day of May, 2006.

s/ S. Allen Martin, Jr.

Stanley A. Martin
S. Allen Martin, Jr.